

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CASE NO. 20-70035-JWC
)	
LATOSHA DEWAUN MATHIS,)	CHAPTER 13
)	
Debtor.)	
_____)	
)	
U.S. BANK TRUST NATIONAL)	
ASSOCIATION, AS TRUSTEE OF)	
THE CABANA SERIES IV TRUST,)	CONTESTED MATTER
)	
Movant,)	
)	
vs.)	
)	
LATOSHA DEWAUN MATHIS and)	
NANCY J. WHALEY, Trustee,)	
)	
Respondents.)	
_____)	

MOTION FOR RELIEF FROM STAY

COMES NOW, U.S. Bank Trust National Association, as Trustee of the Cabana Series IV Trust, c/o SN Servicing Corporation, its servicing agent ("Movant"), and hereby shows this Court the following:

1.

Pursuant to 11 U.S.C. Section 362(d) and Fed. R. Bankr. P. 4001, Movant seeks an order that terminates the automatic stay as to Movant for purposes of allowing it to enforce its security interest in certain real property of the estate, commonly known as 2623 Memory Lane, Douglasville, GA 30135 ("Real Property"), in accordance with the terms of a certain security deed and with applicable non-bankruptcy law.

2.

Debtor filed the above-styled bankruptcy on September 21, 2020.

3.

Movant holds a claim secured by the Real Property. True and correct copies of the subject loan documents are collectively attached hereto as Exhibit "A" and incorporated herein by reference ("Loan Documents").

4.

Debtor is delinquent on the following post-petition payments:

02/01/2022 through 04/01/2022 @ \$860.35 each: \$2,581.05
Unapplied Suspense: (324.46)

Reinstatement Total: \$2,256.59

5.

The Real Property is not necessary for an effective reorganization, and a viable reorganization is not in prospect.

6.

Movant is not adequately protected.

7.

Debtor has little equity, if any, in the Real Property. Per the Douglas County Tax Assessor, the value of the Real Property is approximately \$177,700.00. A true and correct copy of the 2021 tax assessment is attached hereto as Exhibit "B" and incorporated herein by reference. As of March 30, 2022, the payoff on the subject loan was approximately \$151,689.97, excluding attorney's fees and costs for this Motion, with an unpaid principal balance of \$121,331.57.

8.

Debtor has demonstrated a clear inability to successfully reorganize, and this inability warrants the lifting of the automatic stay.

9.

Movant has incurred \$1,050.00 in attorney's fees and \$188.00 costs in bringing this Motion and is entitled to reimbursement for same pursuant to the Loan Documents.

WHEREFORE, Movant prays that this Court, after notice and a hearing:

- a) Waive the stay set forth in FBR 4001(a)(3);
- b) Terminate the automatic stay as to Movant to permit it to enforce its security interest in the Real Property in accordance with the terms of the Loan Documents and applicable non-bankruptcy law, including, but not limited to, conducting a foreclosure sale, seeking confirmation thereof in order to pursue any deficiency, and seeking possession of the Real Property pursuant to the laws of the State of Georgia. However, Movant and/or its successors and assigns may offer, provide, and enter into a potential forbearance agreement, loan modification, refinance agreement, short sale, deed in lieu of foreclosure, or any other type of loan workout/loss mitigation agreement. Movant may contact Debtor via telephone or written correspondence to offer any of same;
- c) Award \$1,050.00 for the attorney's fees and \$188.00 costs incurred by Movant in bringing the Motion; and
- d) Grant such other and further relief as this Court deems just, necessary, and proper.

This 11th day of April, 2022.

Prepared By:
Attorney for Movant

/s/ Marc E. Ripps
Marc E. Ripps
Georgia Bar No. 606515

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Norcross, Georgia 30010-3533
(770) 448-5377
Email: meratl@aol.com

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NOTICE OF ASSIGNMENT OF HEARING

PLEASE TAKE NOTICE that Movant has filed a Motion for Relief from the Stay ("Motion") and related papers with the court seeking an order that lifts the automatic stay.

PLEASE TAKE FURTHER NOTICE that the court will hold an initial telephonic hearing for announcements on the Motion at the following toll-free number: 833-568-8864, Meeting ID 160 459 5648, on **May 10, 2022, at 10:30 a.m. in Courtroom 1203, Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303.**

Matters that need to be heard further by the Court may be heard by telephone, by video conference, or in person, either on the date set forth above or on some other day, all as determined by the Court in connection with this initial telephonic hearing. Please review the "Hearing Information" tab on the judge's webpage, which can be found under the "Dial-in and Virtual Bankruptcy Hearing Information" link at the top of the webpage for this Court, www.ganb.uscourts.gov for more information.

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, then you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is Clerk, U. S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive, Atlanta Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below. IF STAY OF ACTION IS AGAINST CO-DEBTOR, THEN 20-DAY STAY RESPONSE TIME, U.S.C. SECTION 1301 (d), PLUS THREE DAYS IF SERVED BY MAIL.

If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, then Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

This 11th day of April, 2022.

PREPARED BY AND CONSENTED TO:
Attorney for Movant

/s/ Marc E. Ripps
Marc E. Ripps
Georgia Bar No. 606515

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Norcross, Georgia 30010-3533
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CERTIFICATE OF SERVICE

This is to certify that I served the parties listed below with a copy of the Motion for Relief from Stay and of the Notice of Assignment of Hearing by, **unless otherwise noted**, depositing a true and correct copy of each with the United States Postal Service with sufficient postage affixed thereto to insure first class delivery:

Nancy J. Whaley, Esq.
Standing Chapter 13 Trustee
Via ECF Electronic Notice

Christopher J. Sleeper, Esq.
Attorney for Debtor
Via Electronic Notice

Latosha Dewaun Mathis
2623 Memory Lane
Douglasville, GA 30135

This 11th day of April, 2022.

/s/ Marc E. Ripps
Marc E. Ripps
Georgia Bar No. 606515

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